



PATENT  
ATTORNEY DOCKET NO.: 041514-5137

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Hitoshi FURUHATA et al.

Application No.: 09/925,629

Filed: August 10, 2001

For: OPTICAL PICKUP APPARATUS

Confirmation No. 2929

Group Art Unit: 2655

Examiner: G. Patel

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2/5/04  
OK

Commissioner for Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window,  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

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Sir:

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

In an Election/Restriction Requirement dated January 5, 2004 (paper #6), the Examiner required restriction under 35 U.S.C. § 121 between Group A (claims 1-11) and Group B (claims 12-22). Applicants hereby elect Group A (claims 1-11) for examination. Further, the Examiner required an election under 35 U.S.C. § 121 between the claims of Species 1 directed to Figs. 2-6, Species 2 directed to Figs. 2, 4-6 and 7, and Species 3 directed to Figs. 2, 4, 5, 3 or 7 and 8. Applicants hereby elect Species 1 directed to Figs. 2-6 for examination. Applicants respectfully submit that claims 1-6 read on Species 1. In addition, Applicants do not acquiesce to the Examiner's assertion in the Election/Restriction Requirement that none of the claims are generic. Accordingly, Applicants respectfully request formal examination of this application.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS, LLP**

Dated: January 30, 2004

By: 

Donald L. Monin, Jr.

Reg. No. 47,256

**CUSTOMER NO. 009629**

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Sir:

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**  
**TRANSMITTAL FORM**

1. Transmitted herewith is a Response to Election/Restriction Requirement in response to the Office Action dated January 5, 2004 (Paper No. 6).
2. Additional papers enclosed:

- ☐ Drawings: ☐ Formal ☐ Informal
- ☐ Information Disclosure Statement
- ☐ Form PTO-1449, \_\_\_\_\_ references included
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☐ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$ 210.00
<input type="checkbox"/> three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> four months	\$ 1,480.00	\$ 740.00

Extension of time fee due with this request: \$0.00.

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	22	minus	22	0	x \$18 each =	+ \$0.00
Independent Claims (37 C.F.R. §1.16(b))	4	minus	4	0	x \$86 each =	+ \$0.00
[ ] First presentation of Multiple dependent claim(s)					\$290.00	+ \$0.00
SUB-TOTAL =						\$0.00
Reduction by ½ for filing by a small entity						- \$0.00
TOTAL FEE =						\$0.00

6. Fee Payment

- ☒ No fee is to be paid at this time.
- ☐ The Commissioner is hereby authorized to charge the amount of \$0.00 for the \_\_\_\_\_ fee to Deposit Account No. 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: January 30, 2004

By: Donald L. Monin, Jr.  
 Donald L. Monin, Jr.  
 Reg. No. 47,256

**CUSTOMER NO. 09629**  
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